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In the Supreme Court of the United States

OCTOBER TERM 1971

No. 71-1658

SEABOARD COAST LINE RAILROAD COMPANY,
a foreign corporation,
Petitioner,

vs.

RAYMOND L. McDANIEL,
Respondent.

BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

PRELIMINARY STATEMENT

The petitioner, Seaboard Coast Line Railroad Company, seeks review by petition for writ of certiorari pursuant to 28 U.S.C., § 1257, of the decision of the First District Court of Appeal of Florida, in *Seaboard Coast Line R. Co.* v. *McDaniel,* Fla.App. 1971, 254 So.2d 15, cert. den., Fla. 1972, 260 So.2d 517.

The decision affirmed a judgment entered by the Duval County, Florida, Circuit Court upon a jury verdict in favor of the respondent McDaniel and against his employer, the petitioner Seaboard, in an action under the Federal Employers Liability Act and the Safety Appliance Act against the Seaboard as McDaniel's employer. The single jury trial concerned two separate accidents sustained by McDaniel, on September 6, 1967, and July 31, 1968, respec-

tively, during the course of his employment as a switchman for the Seaboard at its yard in Waycross, Georgia. As described by the First District Court of Appeal in the decision sought to be reviewed here, at 254 So.2d 16:

> "On September 6, 1967, McDaniel, a veteran switchman, was assigned to a crew to uncouple three freight cars. A so-called 'flying switch' was involved in the movement of the freight cars. Two attempts to uncouple the cars to be switched failed. On the third attempt, the engine was able to 'run away' from the cars uncoupled which were accidentally cut onto the wrong siding, resulting in the 'cut cars' colliding with other cars on the sidetrack. As a consequence of the collision, McDaniel fell from the top of the car he was riding and was injured.
>
> "The second accident occurred on July 31, 1968. On that occasion the grab iron, attached to the locomotive which plaintiff was attempting to board, broke loose resulting in further injuries to plaintiff."

The decision affirming the jury verdict and judgment involved two holdings, both of which are challenged in this petition:

1. That, contrary to the contention of the railroad, there was, under any standard of proof,[1] no evi-

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1. The petitioner's contention, at pages 3-4 of the Petition, that the Court of Appeal based this holding upon a "failure to recognize" whether F.E.L.A. standards of proof, as held in, e.g., *Page* v. *St. Louis Southwestern R. Co.*, 5 Cir. 1965, 349 F.2d 820, are applicable in the determination of the sufficiency of evidence to sustain a claim of contributory negligence, is entirely incorrect. In the Court of Appeal, McDaniel at page 9 of his Brief of Appellee, specifically acknowledged the correctness of the railroad's position on this point, but argued that, even under this standard, there was no evidence whatever of contributory negligence. It was *this* position which was adopted by the First District in its holding that there was, under any standard, no evidence of contributory negligence. As we shall see, there are many equivalent F.E.L.A. cases which so hold upon the distinctive facts presented in the particular case.

dence of negligence on the part of McDaniel to sustain the claim of contributory or comparative negligence against him involved in the first accident.[2] Hence, the trial judge was correct in "directing a verdict" for the plaintiff on this issue.

2. There was no essential distinction between the Federal-F.E.L.A. standards as to the recoverability of injuries sustained through the aggravation of a pre-existing condition, and the Florida rule on the subject as imposed in the Florida Standard Jury Instruction. Therefore, the trial judge did not err in giving the "standard" jury instruction, 6.2(b) in this F.E.L.A. action.

QUESTIONS PRESENTED

The railroad presents two questions for review by this Court which may be properly rephrased as follows:

1. Whether the trial judge and the District Court correctly determined that, on the particular facts revealed in the record as to the occurrence of the September 6, 1967 "flying switch" accident, there was no evidence of contributory negligence by McDaniel to justify the submission of that issue to the jury.

2. Whether the Florida Standard Jury Instruction on the subject of the aggravation of a pre-existing condition adequately or appropriately expresses the F.E.L.A. law on the subject so as to render proper its submission to the jury in this F.E.L.A. case.

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2. The second accident involved a claim for recovery under the Boiler Inspection Act, 45 U.S.C., § 53, as to which contributory negligence constitutes neither a complete nor a partial bar to the plaintiff's recovery. No issue concerning the plaintiff's conduct in the second accident, therefore, has ever been raised in this proceeding.

ARGUMENT

The respondent McDaniel contends that neither question presented justifies certiorari review by this Court.

A. Sufficiency of Evidence of Contributory Negligence Presents No Basis for Discretionary Review.

It is perfectly obvious, of course, that the issue presented by question 1 concerning the sufficiency of the particular facts involved in the particular case to support the railroad's claim of contributory negligence in the "first" accident, presents no issue of general applicability which would justify review by this Court. In addition, the particular holding is in complete conformance with prior decisions of this Court and is entirely correct on the merits of the issue.

In sum, the record shows beyond question that the trial judge was correct in concluding that

> "There is no evidence of contributory negligence at all as far as the court can see." (ST. 4).

The railroad devotes much of the petition on this issue to arguing the proposition that the same standards of negligence and causal relationships applicable to support a claim of railroad liability under the F.E.L.A. apply in the consideration of the employee-plaintiff's contributory negligence. As there was below, see n. 1, there is no need to take issue with the railroad on this point, although its position does indeed seem to be correct. *Page* v. *St. Louis S. R. Co.*, 5 Cir. 1965, 349 F.2d 820. Even under these standards, the F.E.L.A. is not a Workmen's Compensation Statute imposing absolute liability for on-the-job-injuries, it requires evidence of negligence, including reasonable foreseeability between the alleged negligent conduct and the resulting injury, and a causal relationship—"in whole

or in part, however slight"—*between* the negligence *and* the injury. In many recent cases, the Supreme Court of the United States has emphasized the necessity of presenting evidence on each of these elements in order even to reach the jury on the issue of railroad negligence (and thus of employee contributory negligence) in a F.E.L.A. action. E.g., *Herdman* v. *Pennsylvania R. Co.*, 253 U.S. 518, 77 S.Ct. 455, 1 L.Ed.2d 508; *Inman* v. *Baltimore & O. R. Co.*, 361 U.S. 138, 80 S.Ct. 242, 4 L.Ed.2d 198; *New York N.H.&H. R. Co.* v. *Henagan*, 364 U.S. 441, 81 S.Ct. 198, 5 L.Ed.2d 183, reversing 1 Cir. 1960, 272 F.2d 153; *Gallick* v. *Baltimore & O. R. Co.*, 372 U.S. 108, 117, 83 S.Ct. 659, 9 L.Ed.2d 618, 626.

Applying these principles to the converse situation involved here, that of alleged contributory negligence many courts have ruled, as did the trial judge and the Court of Appeal below, that there was no basis upon which to submit a contributory negligence issue in a F.E.L.A. action to the jury. E.g., *Knierim* v. *Erie L. R. Co.*, 2 Cir. 1970, 424 F.2d 745, 747-748; *Palauch* v. *Erie L. R. Co.*, 3 Cir. 1968, 387 F.2d 996, 999; *Morran* v. *Pennsylvania R. Co.*, 3 Cir. 1963, 321 F.2d 402; *Chicago G. W. R. Co.* v. *Casura*, supra; *Moore* v. *A.T. & S.R.R. Co.*, 28 Ill. App.2d 340, 171 N.E.2d 393, 97 A.L.R.2d 511. These cases are directly applicable to a consideration of this record, which viewed in the light most favorable to the railroad, contains no evidence whatever that McDaniel was, even in the slightest, at fault in the September 7th switching accident.

The record shows conclusively that:

(a) McDaniel was standing in accordance with his instructions, in a proper position in a proper place riding on the brake step of the second car of the three car cut

(T. 22, 117). From that position he would have been able to "tie" the handbrake so as to stop the cut, had there been sufficient room on the track into which the cut was "accidentally" switched (T. 23).

(b) As the cut approached the switch, it was properly to have been switched onto track No. 3 (T. 117, 120-121, 151-153).

(c) It was only after he passed the switch, that McDaniel became aware of the fact that he had been accidentally switched onto track No. 1 where he himself had placed cars earlier that day (T. 117-118, 119-121, 151-153). The cars were placed only three to four car lengths from the switch (T. 23).

(d) In the short distance thus available, it was simply impossible to have stopped the cut of cars at the 20-25 mile per hour speed at which it was traveling (T. 22-24).

The collision thus resulted solely from the negligence of the other employees of the Seaboard who negligently operated the cut at the excessive speed, and switched McDaniel unknowingly onto a track in which there was insufficient space "in the clear" within which to avoid the collision. McDaniel was simply not at fault in failing to stop the cut when it was admittedly impossible to do so. The non-existence of a triable issue of McDaniel's negligence is forcefully demonstrated by the decision of this Court in the *Henagan* case, supra. There, this Court reversed a jury verdict and judgment for an employee injured on a train which had come to a sudden stop in order to avoid a suicide on the tracks, on the ground that, as a matter of law, there was no evidence of railroad negligence in failing earlier to observe the suicide near the tracks nor in failing to apply the brakes or stop the train sooner

than the crew actually did. At 5 L.Ed.2d 184, the Court held:

> "The train was pulling into petitioner's station at Providence, Rhode Island, for a scheduled stop. One Montell, apparently to commit suicide, stepped on the track from the station platform as the train approached alongside the platform. The engineer made the emergency application of the brakes in an unsuccessful effort to stop the train before it reached Montell. We have examined the trial record and hold that the proofs were insufficient to submit to the jury the question whether employer negligence played a part in the emergency application of the brakes which allegedly produced the respondent's injury. See Herdman v. Pennsylvania R. Co., 352 U.S. 518, 1 L.ed.2d 508, 77 S.Ct. 455."

This holding, under the railroad's own contention, applies equally to require a determination that the employee, McDaniel, was guilty of no negligence under identical circumstances. See also *Herdman* v. *Pennsylvania R. Co.*, supra; *Hoover* v. *Pennsylvania R. Co.*, 405 Pa. 642, 177 A.2d 98; Annot., 60 A.L.R.2d 637, 661-662, 666-667.

The railroad argues that the jury could have found McDaniel negligent in one or more of three different respects. None withstands analysis:

> (a) The railroad first contends that the jury could have found that the plaintiff could and should have stopped the cut prior to the collision. It is enough to say in response that there is no such evidence whatever in the record, which contains only Gordon's and McDaniel's specific testimony that the cut *could not be stopped in time.*

(b) Basing its claim on certain answers given by McDaniel in his deposition, which were used for impeachment purposes only, at the trial (see T. 151-153), the railroad next claims that there was evidence that the plaintiff—despite the specific and unequivocal testimony to the contrary (T. 117-118, 120-121, 151-153), should have known, before reaching the switch, that he was not to be switched onto track No. 3 but rather onto the occupied track No. 1.

First, since the deposition answers were used only in an attempt to impeach McDaniel's direct testimony as purported "prior inconsistent statements", it is clear that their contents—whatever they are—may not be employed substantively, or to serve any purpose other than effecting McDaniel's credibility. E.g., *Tomlinson* v. *Peninsular Naval Stores Co.*, 61 Fla. 453, 55 So. 548; *New York Life Ins. Co.* v. *Bacalis*, 5 Cir. 1938, 94 F.2d 200. The deposition statements thus may not even be considered on the question of whether a jury issue as to contributory negligence.

Even if they were so considered, however, they create no such issue. The statements at T. 151-153, McDaniel stated that track 3 was blocked by cars on track 2 and thus that neither track was clear (T. 151). However, and this is the key point, McDaniel specifically said that he determined that this was true *only after the accident* (T. 151). As he said at T. 151:

"Q And in this case, you knew that track 3 and track 2 were not clear; did you not know that?

A *I knew that after I hit.*"

It is perfectly apparent that the answers upon which the railroad relies related only to the knowledge McDaniel gained of the condition of the tracks McDaniel

gained *subsequent* to the accident. There is nothing whatsoever in the record even to impeach the clear and uncontradicted statements that he had no knowledge that he was headed toward track 1, until he passed the switch and it was too late to do anything about it (T. 119-121).

(c) Finally, the railroad contends that McDaniel might have been found negligent in riding on the brake step at the rear of the second car of the "cut", rather than the first one. Again, there was no evidence to sustain the claim. The record showed only that he was in a proper position to perform his job (T. 21), and there was no evidence of the vital element that he could or should have *reasonably foreseen* that an accident might occur as a result of his riding the second car, and not riding the first. See *Gallick* v. *Baltimore & O. R. Co.*, supra. Moreover, there is no evidence upon which the jury could have concluded that it made any causal difference upon which car McDaniel rode. No matter where he was, the evidence established that the collision would have taken place and could not have been avoided. All that would have occurred had he been on the first car was that the impact upon him would have been even greater, and his resulting injuries even more serious.

In sum, the record simply contains no evidence whatever that McDaniel did anything wrong or that his conduct contributed, even in the slightest, to the collision. The numerous cases cited, supra, which contain holdings of no F.E.L.A. contributory negligence as a matter of law, are thus directly in point. As was held in perhaps the most recent one, the *Knierim* case, supra, at 424 F.2d 747:

"The only claim against appellees Knierim and Cashin, who served as brakemen on the Passaic Drill,

is that they failed to make certain that the Passaic Drill had proper clearance to operate against traffic. Before the Passaic Drill left the Manhattan Rubber Company for the Continental Can Company siding, Fitchik, who as conductor was primarily responsible for the safety of the train, had undertaken to flag oncoming trains and to call the dispatcher to obtain clearance for the moves of the train. Appellees had no reason to anticipate that Fitchik would fail to perform properly these duties which were primarily his responsibility, as the man in charge of the crew, rather than theirs. To require a railroad employee to act at his peril in relying on a superior's undertaking to perform a particular task would be inimical to the purpose of the FELA. Cf. Tiller v. Atlantic Coast Line R. Co., 318 U.S. 54, 66-67, 63 S.Ct. 444, 87 L.Ed. 610 (1943). Knierim and Cashin must be held to have acted prudently in relying on their superior's express representations that he would protect and clear the train's movements. See Paluch v. Erie Lackawanna R. Co., 387 F.2d 996, 999 (3rd Cir. 1968)."

See also *Mumma* v. *Reading Co.*, E.D. Pa. 1965, 247 F.Supp. 252, 254-259.

On the other hand, the case heavily relied upon by the railroad, *Matthews* v. *A. T. & S. F. R. Co.*, Cal.App. 1942, 129 P.2d 435, 439-440, is manifestly *not* in point. There the appellate court simply rejected the railroad's claim that the employee had been guilty of contributory negligence *as a matter of law*. In that case, only the plaintiff testified that his cut had been switched onto an occupied track in which he had insufficient room to stop; every other crew member stated that he had been switched onto an open track and that a collision occurred only because of his own negligence. Even under these circum-

stances, the court held only and properly that contributory negligence was for the jury. *This record*, however, contains no contradictions at all concerning the circumstances of the accident or the fact that, as the trial judge properly found, McDaniel was not guilty of any negligence which was a cause of the collision. Accordingly, as in the many cases cited, supra, under the F.E.L.A., the trial judge and the Court of Appeal were entirely correct in determining that the contribtuory negligence issue could not properly be submitted to the jury.

B. Holding As to Propriety of Florida Instruction on Aggravation Presents No Basis for Discretionary Review.

The second question presented by the railroad likewise presents no basis for review by certiorari. The challenged holding of the District Court that the F.E.L.A. law as to the recoverability of damages for the aggravation of a pre-existing condition by an accident for which the railroad is liable, was entirely in accordance with the applicable decisions of this Court and of the Courts of Appeal, and was thus entirely correct.

There was abundant evidence in the record on the damage issue concerning the aggravating and activating effect of the injuries McDaniel received in the accidents in question upon his pre-existing mental and physical condition. One of the Railroad's own witnesses testified, for example, that the accidents were, or may have been, the "straw that broke the camel's back" (T. 267-286), resulting in a single condition of extensive disability subsequent to the second accident. In accordance with this testimony, the trial judge instructed the jury concerning the responsibility of the Railroad to respond in damages for the results of an aggravation of a pre-existing condition (T. 365,

366). On appeal, the Railroad did not claim error in submitting the issue to the jury. It claimed, however, that the *language* of the Court's instruction on the issue was incorrect. The trial judge in fact instructed the jury on "aggravation" in accordance with the Florida Standard Jury Instruction 6.2(b). That instruction stated:

> "Also, you should consider any aggravation of an existing disease or physical defect or activation of any such latent condition, resulting from such injury. If you find that there was such an aggravation, you should determine, if you can, what portion of plaintiff's condition resulted from the aggravation and make allowance in your verdict only for the aggravation. However, if you cannot make that determination or if it cannot be said that the condition would have existed apart from the injury, you should consider and make allowance in your verdict for the entire condition." (T. 365-366).

The railroad argues that the last sentence of this instruction was incorrect under the F.E.L.A., and should have been replaced, by the following sentence in defendant's requested instruction No. 11:

> "The Plaintiff is not entitled to recover for damages which would have resulted from his previous condition without the aggravation." (R. 112).[3]

The thrust of the instruction as given by the trial judge is to hold the defendant railroad responsible for the "entire" resulting condition of an injured employee, if its negligence has aggravated a *pre-existing* condition, and the

3. It is difficult to determine that there is any real, rather than semantic, difference between the requested instruction and that given by the Court. It is difficult, therefore, in turn, to determine how the railroad was harmed by the refusal of its "requested" instruction and the submission of the Standard Jury Charge on this issue.

resulting one would not have otherwise occurred—if, in other words, the accident in question was a cause, in part, of a subsequent "indivisible" injury. It is difficult, first of all, to understand how the actual instructions essentially differed from the one supposedly submitted by the defendant. There is no suggestion in the Standard Jury Instructions that the plaintiff *would* be entitled to recover for any damages which he would have sustained if the pre-existing condition had not been aggravated; the requested instruction would merely have negatively informed the jury that it should *not* award damages for injuries which the defendant did not cause, in whole or part. There was clearly no error in declining to instruct the jury on such a negative proposition. E.g., *Atlantic Coast Line R. Co.* v. *Braz,* Fla.App. 1966, 182 So.2d 491, 495.

In any event, the instruction was a proper statement of the F.E.L.A. law of damages.[4] As the Railroad itself points out, the F.E.L.A. test of requisite causation involves merely the question of whether the railroad's negligence played "any part, even the slightest" in producing the injuries complained of. E.g., *Rogers* v. *Missouri Pacific R. Co.,* 352 U.S. 500, 77 S.Ct. 443, 1 L.Ed.2d 493. The aggravation instruction, which stated that the railroad was responsible for the entire condition, as aggravated, if its negligence contributed to that single condition and the condition would not otherwise have existed, represents no more than a particular application of this rule. As this Court held in *Gallick* v. *Baltimore & Ohio R. Co.,* 372 U.S. 108, 83 S.Ct. 659, 9 L.Ed.2d 618, 623:

4. The railroad's claim that the common law of Florida is more "liberal" and less "restrictive" than the F.E.L.A. must be unique in the history of F.E.L.A. litigation. See the District Court's decisions in *Gaymon* v. *Quinn Menhaden Fisheries of Texas, Inc.,* Fla.App. 1960, 118 So.2d 42, 44, and *McCloskey* v. *Louisville & N. R. Co.,* Fla.App. 1960, 122 So.2d 481, 483.

". . . And we have no doubt that under a statute where the tortfeasor is liable for death or injuries in producing which his 'negligence played any part, even the slightest' (Rogers v. Missouri Pacific R. Co., 352 US 500, 506, 1 L ed2d 493, 499, 77 S Ct 443) such a tortfeasor must compensate his victim *for even the improbable or unexpectedly severe consequences of his wrongful act.* Cf. Kernan v. American Dredging Co., 355 US 426, 2 L ed 2d 382, 78 S Ct 394; Coray v. Southern Pacific Co., 335 US 520, 93 L ed 208, 69 S Ct 275; Lillie v. Thompson, 332 US 459, 92 L ed 73, 68 S Ct 140. . . ." (Emphasis supplied)

There can be no doubt that the "in whole or in part" rule is in fact applicable to the results of the negligence of the railroad in aggravating a prior condition. See *Sentilles* v. *Inter-Caribbean Shipping Corp.*, 361 U.S. 107, 80 S.Ct. 173, 4 L.Ed.2d 142 (aggravation of preexisting latent tubercular condition). This is forcefully demonstrated by the fact that jury instructions on this subject indistinguishable from those given below, have been specifically upheld and approved in F.E.L.A. actions. Thus, in *Butler* v. *New York Central R. Co.*, 7 Cir. 1958, 253 F.2d 281, 283-284, cited by the District Court here, the Court held:

"The defendant complains of Instruction No. 29 which reads as follows:

'If you find for the plaintiff, and if you further find from the evidence that the plaintiff had a congenital weakness in his mind which has never caused him any inability to work or take care of his family and has never interfered with his activities or manner of living before the accident complained of, but that as a proximate result of the negligence of the defendant he suffered the injuries of which he now

complains, I charge you that he is entitled to recover full compensation for these injuries, even though the result of said injuries may be more serious and far-reaching because of the congenital weakness in his mind, and even though his particular injuries might have been less, except for the congenital weakness of his mind.'

The defendant objected to this instruction for the reason that 'it would permit a recovery on the part of plaintiff for any and all damages and would permit a recovery in this case, whereas the evidence most favorable to plaintiff could only show the aggravation of a present existing condition and this would permit recovery of a condition which existed prior to and not confined solely to the damages which would flow from the aggravation'.

The defendant's contention that this instruction permitted a recovery 'for a congenital weakness in plaintiff's mind holding defendant liable for injuries that were not the proximate result of its alleged negligence' is without merit because the instruction says no such thing. The instruction is most awkwardly drawn. As worded it was neither beneficial to the plaintiff nor harmful to the defendant. It informed the jury that the plaintiff was entitled to recover, if at all, for the injuries suffered as a proximate result of the negligence of the defendant whether such injuries be more or less serious because of the possible congenital weakness of his mind. In our opinion the objection of the defendant was not well founded.

Under the Federal Employer's Liability Act, the test of a jury case is whether the proofs reasonably justify the conclusion that the employer's negligence

> played any part, however slight, in producing the employee's injury. Rogers v. Missouri Pacific Railroad Co., 1957, 352 U.S. 500, 77 S.Ct. 443, 1 L.Ed.2d 493; Webb v. Illinois Central Railroad Co., 1957, 352 U.S. 512, 77 S.Ct. 451, 1 L.Ed.2d 503; Arnold v. Panhandle & S.F.R. Co., 1957, 353 U.S. 360, 77 S.Ct. 840, 1 L.Ed.2d 889."

See also *Rank* v. *Alaska Steamship Co.*, Wash. 1954, 274 P.2d 583 (Jones Act defendant which aggravates pre-existing condition liable for "entire injury"); *Kirchgestner* v. *Denver & R.G.W.R. Co.*, Utah 1950, 213 P.2d 685.

The cases cited by the railroad on this issue do not sustain its contention. In *Shupe* v. *New York Central System*, 7 Cir. 1965, 339 F.2d 998, the sole issue did not involve "aggravation" at all, but rather whether the Plaintiff's damages were shown to have resulted from a F.E.L.A. accident to his shoulder, after which he worked for 10 months, rather than from an entirely separate non-F.E.L.A. back injury which he then sustained, and after which he did not work at all. The Court held that there was an insufficient showing that the Plaintiff's damages had resulted from the F.E.L.A. accident. In *Matthews* v. *Atchison, T. & S.F. R. Co.*, Cal.App. 1942, 129 P.2d 435, the Court held at 129 P.2d 443:

> ". . . And he has the burden of proving with reasonable certainty that his future disability for which he claims damages will be the result of the aggravation *rather than the natural development of the previous condition.*" (Emphasis supplied).

This statement is fully in accord with the instructions given below, under which the plaintiff could not have recovered if his injuries resulted merely from the unaggravated "development of his previous condition".

REASONS FOR DENYING PETITION

The petition for writ of certiorari should not be granted because

1. The decision below does not decide a question of real substance or of broad applicability; it determined, as to question 1, only the sufficiency of the evidence in a particular factual setting, and, as to question 2, only the propriety of what was at best a miniscule semantic distinction between the particular jury instruction submitted to the jury and that requested by the petitioner.

2. The federal questions concerning the sufficiency of the evidence and the propriety of the jury instruction were decided entirely in accordance with prior determinations of this Court as to analogous, if not identical, situations and questions.

CONCLUSION

It is respectfully submitted that the judgment should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Brief was mailed to Petitioner herein by placing same in the United States mail, properly addressed, postage prepaid, on this, the 21st day of July, 1972, to KURZ, TOOLE, TAYLOR, MOSELEY & GABEL, 1014 Barnett Bank Building, Jacksonville, Florida 32202.

.....

Attorney for Respondent